

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

NEW YORK

Brady

EXHIBIT AND WITNESS LIST

v.
Wal-Mart Stores, Inc.

Case Number: CV03-3843 (JO)

PRESIDING JUDGE		PLAINTIFF'S ATTORNEY		DEFENDANT'S ATTORNEY
Judge James Orenstein		Douglas H. Wigdor / Michelle le Roux		Joel Finger / Michael Kessel
TRIAL DATE (S)		COURT REPORTER		COURTROOM DEPUTY
2/16/05		Harry Rapaport / Owen Wicken		Michele Dascaro
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED
✓		2/16/05		(Witness) Frank Alberg
✓		2/16/05		(Witness) Sally Salvo
✓		2/16/05		(Witness) Patrick Sean Brady
5		2/16/05	✓	✓ Triple C Award dtl 5/00
9		2/16/05	✓	1 page Job Application
12		2/16/05	✓	Egan's Interview Notes 7/31/02
13		2/16/05	✓	Salesfloor Associate Job Description
23		2/16/05	✓	Associate Scheduling Availability
14		2/16/05	✓	Little's Interview Notes
16		2/16/05	✓	People Pass Drug test form dtl 8/4/02
17		2/16/05	✓	Alcohol & Drug Abuse Policy Acknowledgment dtl 8/8/02
22		2/16/05	✓	Brady's CBL Access
18		2/16/05	✓	New Associate Orientation Checklist
20		2/16/05	✓	New Associate Risk Control Checklist
42		2/16/05	✓	Brady's Suffolk County Community College Transcript
B		2/16/05	✓	Our people make the difference application signed by Brady 7/16/02
				of employment
D		2/16/05	✓	✓ Signed Acknowledgment Notification pg for the
				Wal-Mart Associate Handbook
24		2/17/05	✓	✓ Hours Worked Report 8/10/02 - 8/23/02
25		2/17/05	✓	Hours Worked Report 8/24/02 - 9/6/02
15		2/17/05	✓	Drug test Results

* Include a notation as to the location of any exhibit not held with the case file or not available because of size.

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Judge James Orenstein		Douglas H. Winger/Michelle DeRosa			Joel Fingerman/Michael Kessel
TRIAL DATE (S)		COURT REPORTER			COURTROOM DEPUTY
2/16/05-		Owen Wicker/Harry Rapoport			Michele Dawson
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES
32		2/17/05	✓	✓	Associate Pay Guidelines (Witness) Patrick J. Brady (Father)
✓		2/17/05			(Witness) Karen Brady
✓		2/17/05			(Witness) Joan Little
46		2/17/05	✓	✓	Little's CBL Scores
33		2/17/05	✓	✓	Training for Improvement Policy
53		2/17/05	✓	✓	Wal-Mart's five answers to common job description & Matrix questions
11		2/17/05	✓	✓	Notice of Non-Discrimination
19		2/17/05			Brady Hourly Associate information sheet add 8/8/00
✓		2/17/05			Dr. Jayawarty (expert)
10		2/17/05	✓	✓	Procedure for Requesting Reasonable Accommodation
23		2/17/05	✓	✓	Reference Check
43		2/17/05	✓	✓	Bowers' CBL Scores
44		2/17/05	✓	✓	Egan's CBL Scores
45		2/17/05	✓	✓	Bates' CBL Scores
47		2/17/05	✓	✓	Wicks' CBL Scores
48		2/17/05	✓	✓	Chin's CBL Scores
* 6		2/17/05	✓	✓	Personnel Manager Training Series Video (redacted)
36		2/17/05	✓	✓	California Consent Decree
✓		2/18/05			Yem Hung Chin (witness)
✓					(Witness) James Bowers
NN		2/18/05	✓	✓	Supervision

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*Video tape will not go into Jury Room

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PATRICK S. BRADY,

Plaintiff,

- against -

WAL-MART STORES, INC.,
YEM HUNG CHIN, and JAMES BOWEN,

Defendants.

VERDICT SHEET

CV 03-3843 (JO)

JAMES ORENSTEIN, Magistrate Judge:

According to the principles of law as charged by the Court and the facts as you find them, please answer the following questions:

SECTION 1: Disability Discrimination (All Defendants)

QUESTION 1-A (Federal Law Claim Against Wal-Mart):

Did the Plaintiff prove that he is disabled within the meaning of the federal anti-discrimination law and that his employer Wal-Mart subjected him to an adverse employment action on the basis of his actual or perceived disability?

YES

NO

QUESTION 1-B (State Law Claim Against Wal-Mart):

Did the Plaintiff prove that his employer Wal-Mart subjected him to an adverse employment action on the basis of his disability?

YES

NO

**INSTRUCTION: ONLY ANSWER QUESTIONS 1-C THROUGH 1-E IF
YOU ANSWERED "YES" TO QUESTION 1-A OR QUESTION 1-B
ABOVE, OR BOTH.**



QUESTION 1-C:

Please indicate which adverse employment action(s) you find that the Plaintiff proved.

ACTION	PROVED	NOT PROVED
a. Transfer to cart-pushing	✓	_____
b. Transfer to food department	_____	✓
c. Hostile work environment	✓	_____
d. Constructive discharge	_____	✓

QUESTION 1-D (Yem Chin):

Did the Plaintiff prove that defendant Yem Hung Chin participated in the conduct giving rise to the proven claim of discrimination by Wal-Mart?

YES ✓ NO _____

QUESTION 1-E (James Bowen):

Did the Plaintiff prove that defendant James Bowen participated in the conduct giving rise to the proven claim of discrimination by Wal-Mart

YES _____ NO ✓

SECTION 2: Failure to Provide Reasonable Accommodation (Wal-Mart only)

QUESTION 2:

Did the Plaintiff prove that Wal-Mart knew or should have known that it had a duty to offer the Plaintiff a reasonable accommodation for his actual or perceived disability?

YES ✓ NO _____

SECTION 3: Violation Of Federal Law In The Job Application Process (Wal-Mart only)

QUESTION 3-A:

Did the Plaintiff prove that Wal-Mart made a prohibited inquiry during the course of the Plaintiff's job application?

YES X NO _____

QUESTION 3-B:

Please indicate which prohibited inquiry (or inquiries) you find that the Plaintiff proved was made before he received a conditional job offer.

INQUIRY	PROVED	NOT PROVED
a. Prescription medications	_____	<u>✓</u>
b. Job description inquiry	<u>X</u>	_____

SECTION 4: Intentional Infliction of Emotional Distress (All Defendants)

QUESTION 4-A (Wal-Mart):

Did the Plaintiff prove that Defendant Wal-Mart intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES _____ NO ✓

QUESTION 4-B (Yem Hung Chin):

Did the Plaintiff prove that Defendant Yem Hung Chin intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES _____ NO ✓

QUESTION 4-C (James Bowen):

Did the Plaintiff prove that Defendant James Bowen intentionally or recklessly engaged in extreme and outrageous conduct that caused him to suffer extreme emotional distress?

YES _____

NO

SECTION 5: Damages

QUESTION 5-A. INSTRUCTION: Answer Question 5-A only if your answer is "YES" to one or more of the following questions: Question 1-A, Question 1-B, Question 2.

Please indicate the amount of economic damages, if any, to which the Plaintiff is entitled:

\$ 5,265.00 + 3849.30 - 9,114.00

QUESTION 5-B. INSTRUCTION: Answer Question 5-B only if your answer is "YES" to one or more of the following questions: Question 1-A, Question 1-B, Question 2, Question 4-A.

Please indicate the amount of compensatory damages, if any, to which the Plaintiff is entitled:

\$ 2.5 million

QUESTION 5-C.

Is the Plaintiff entitled to one dollar in nominal damages on any claim?

YES

NO _____

If the answer is "YES," which claim or claims?

CLAIM	YES	NO
1-A	_____	<input checked="" type="checkbox"/>
1-B	_____	<input checked="" type="checkbox"/>
2	<input checked="" type="checkbox"/>	_____
3	<input checked="" type="checkbox"/>	_____

QUESTION 5-D. INSTRUCTION: Answer Question 5-D only if your answer is "YES" to Question 1-A.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of disability discrimination under the federal anti-discrimination law:

\$ 4.5 million

QUESTION 5-E. INSTRUCTION: Answer Question 5-E only if your answer is "YES" to Question 2.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of failure to provide a reasonable accommodation for an actual or perceived disability under the federal anti-discrimination law:

\$ 3250,000

QUESTION 5-F.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of violations of the federal anti-discrimination law in the job application process:

CLAIM	AMOUNT
Prescription Medications Inquiry (answer only if proven)	\$ <u>0</u>
Job Description Inquiry (proven, please answer)	\$ <u>250,000</u>
TOTAL	\$ <u>250,000</u>

QUESTION 5-G. INSTRUCTION: Answer Question 5-G only if your answer is "YES" to one or more of the following questions: Question 4-A, Question 4-B, Question 4-C.

Please indicate the amount of punitive damages, if any, to which the Plaintiff is entitled based on the claim of intentional infliction of emotional duress:

\$ 0

QUESTION 5-H. INSTRUCTION: Answer Question 5-H only if you answered more than one of Questions 5-A through 5-G.

Please indicate the total amount of punitive damages, if any, to which the Plaintiff is entitled based on all the eligible claims you find he has proven:

\$ 5 million

FINAL INSTRUCTIONS: Once you have completed this form, the jury's foreperson should sign and date it. Then advise the Court by note that you have reached a verdict and that you are ready to return to the courtroom to announce your verdict.

Dated: Central Islip, New York
2/23/05, 2005
(date)

Victoria Penelmenter
FOREPERSON

We have a Verdict

Victoria Pendleton



UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PATRICK S. BRADY,

Plaintiff,

- against -

CV 03-3843 (JO)

WAL-MART STORES, INC.,
YEM HUNG CHIN, and JAMES BOWEN,
Defendants.

-----X
JAMES ORENSTEIN, Magistrate Judge:

Ladies and gentlemen of the jury, I have received your note asking whether, "on section D, 'the intentional infliction of emotional distress claim,'" you "must ... be unanimous on all four elements." The answer to your question is yes. You must be unanimous as to each element of each claim, and you must be unanimous in each entry you make on the verdict sheet.

Dated: Central Islip, New York
February 23, 2005



JAMES ORENSTEIN

United States Magistrate Judge

COURT EXHIBIT

4

On section D "The intentional infliction of Emotional Distress Claim" must we ~~be~~ be unanimous on all four elements?

Victoria Perlmetter

Page 16 bottom

First

Second

Top 17

Third

Fourth



We would like to have a
read back of Mrs. Chin's testimony.

Victoria Perelmutter

13

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25

COURT EXHIBIT

2

Janor #3 needs to make a
phone call to cancel a
Doctor's appt.

for person
Victoria Belmire

COURT EXHIBIT

1